

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GARY SOUJA, Individually and as
Special Administrator for the Estate
of OSWALD F. SUOJA, Deceased,

Plaintiff,

v.

OWENS-ILLINOIS, INC.,

Defendant.

DECLARATION OF BRIAN WATSON
IN SUPPORT OWENS-ILLINOIS, INC.'S
POST-TRIAL BRIEF

Case No. 3:99-cv-00475-slc

I, Brian O. Watson, declare as follows:

1. I am an attorney with the law firm of Riley Safer Holmes & Cancila LLP and counsel in this case for defendant Owens-Illinois, Inc. I make this declaration upon my own personal knowledge. If called to testify as to the truth of the matters stated herein, I could and would do so competently.

I. Exhibits as to Affirmative Defenses Issue

2. Attached as **Exhibit 1** is the email that I sent to Robert McCoy and Daniel Hausman, which included copies of the Asbestos Defendants' Master Affirmative Defenses, Amended Master Affirmative Defenses, and Supplemental Master Affirmative Defenses.

3. Attached as **Exhibit 2** are the Asbestos Defendants' Master Affirmative Defenses.

4. Attached as **Exhibit 3** are the Asbestos Defendants' Amended Master Affirmative Defenses.

5. Attached as **Exhibit 4** are the Asbestos Defendants' Supplemental Master Affirmative Defenses.

6. Attached as **Exhibit 5** is the Pretrial Order No. 1, *In Re: Asbestos Products Liability Litigation* (No. VI), No. MDL 857 (E.D. Pa. Sept. 18, 1991).

7. Attached as **Exhibit 6** is the Order for Pleadings in Cases Which Contain Asbestos-Related Personal Injury Claims, *In Re: Asbestos Litigation*, Misc. Docket No. 86-0457 (E.D. Pa. Aug. 20, 1986).

8. Attached as **Exhibit 7** is the Civil Docket for this civil action in MDL 875, United States District Court Eastern District of Pennsylvania (Philadelphia).

II. Exhibits as to Disclosure Issues

9. On December 1, 2015, around 6:30 p.m., Edward Casmere and I met with Robert McCoy and Daniel Hausman to confer about exhibits and designations in the conference room on the second floor at the Hyatt Place Madison/Downtown hotel. During the meeting, Mr. McCoy asked me to send to Mr. Hausman documents showing that certain witnesses had been disclosed. I agreed to send the documents that I could find overnight.

10. Attached as **Exhibit 8** is the email that I sent on December 2, 2015, 12:26 AM to Daniel Hausman (dhausman@cvlo.com) and Robert McCoy (bmccoy@cvlo.com), which states in part, "Attached are the disclosures you requested re: John Locher, Elmer Borchardt, Ralph Van Beck, William L. Lea, Dohrman H. Byers, William Z. Fluck, and

Frank Hofstetter. Please let me know if you need further information.”

A. Elmer Borchardt

11. Attached as **Exhibit 9** is Owens-Illinois Second Supplemental Rule 26(a) Disclosures, which disclosed Elmer Borchardt.

12. Attached as **Exhibit 10** are selected pages from Plaintiff’s Supplemental Responses to Standard Interrogatories – 6/12/12, which disclosed Elmer Borchardt.

13. Attached as **Exhibit 11** are selected pages from the Plaintiff’s Known Site Worker Witness Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed Elmer Borchardt.

14. Attached as **Exhibit 12** are selected pages from Plaintiff’s Third Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 8/24/2012, which disclosed Elmer Borchardt.

15. Attached as **Exhibit 13** are selected pages from Plaintiff’s Fourth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 9/14/2012, which disclosed Elmer Borchardt.

16. Attached as **Exhibit 14** are selected pages from Plaintiff’s Fifth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 9/24/2012, which disclosed Elmer Borchardt.

17. Attached as **Exhibit 15** are selected pages from Plaintiff’s Sixth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 9/28/2012, which disclosed Elmer Borchardt.

18. Attached as **Exhibit 16** are selected pages from Plaintiff’s Sixth [sic]

Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 10/1/2012, which disclosed Elmer Borchardt.

19. Attached as **Exhibit 17** are selected pages from Plaintiff's Seventh [sic] Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 10/12/2012, which disclosed Elmer Borchardt.

20. Attached as **Exhibit 18** are selected pages from Plaintiff's Eighth [sic] Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 10/26/2012, which disclosed Elmer Borchardt.

21. Attached as **Exhibit 19** are selected pages from Plaintiff's Ninth [sic] Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 11/9/2012, which disclosed Elmer Borchardt.

22. Attached as **Exhibit 20** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony – 12/7/2012, which disclosed Elmer Borchardt.

23. Attached as **Exhibit 21** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony – 12/21/2012, which disclosed Elmer Borchardt.

24. Attached as **Exhibit 22** are selected pages from CVLO Plaintiffs' Rule 26 disclosure of Site Workers and Past Testimony – 2/1/2013, which disclosed Elmer Borchardt.

25. Attached as **Exhibit 23** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony – 3/20/2013, which disclosed Elmer

Borchardt.

26. Attached as **Exhibit 24** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony – 4/15/2013, which disclosed Elmer Borchardt.

27. Attached as **Exhibit 25** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony – 4/26/2013, which disclosed Elmer Borchardt.

28. Attached as **Exhibit 26** are selected pages from Plaintiffs' Rule 26 disclosure for Site Workers and Past testimony – 10/18/2013, which disclosed Elmer Borchardt.

29. Attached as **Exhibit 27** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial Disclosure dated 10/19/2015, which disclosed Elmer Borchardt.

B. Dohrman Byers

30. Attached as **Exhibit 28** are selected pages from Plaintiff's Supplemental Response to Standard Interrogatories – 6/12/2012, which disclosed Dohrman Byers.

31. Attached as **Exhibit 29** are selected pages from Plaintiff's Known Site Worker Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed Dohrman Byers.

32. Attached as **Exhibit 30** are selected pages from Plaintiff's Supplemental Rule 34 responses and Rule 26(a) Disclosures – February 7, 2013, which disclosed Dohrman Byers.

33. Attached as **Exhibit 31** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial

Disclosure dated 10/19/2015, which disclosed Dohrman Dyers.

C. William Fluck

34. Attached as **Exhibit 32** are selected pages from Plaintiff's Supplemental Response to Standard Interrogatories – 6/12/2012, which disclosed William Fluck.

35. Attached as **Exhibit 33** is the Plaintiff's Known Site Worker Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed William Fluck.

36. Attached as **Exhibit 34** are selected pages from Plaintiff's Supplemental Rule 34 responses and Rule 26(a) Disclosures – February 7, 2013, which disclosed William Fluck.

37. Attached as **Exhibit 35** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial Disclosure dated 10/19/2015, which disclosed William Fluck.

D. Frank Hofstetter

38. Attached as **Exhibit 36** is Plaintiffs' Initial Response to Standard Interrogatories – March 4, 1998, which disclosed Frank Hofstetter.

39. Attached as **Exhibit 37** are selected pages from Plaintiff's Supplemental Response to Standard Interrogatories – 6/12/2012, which disclosed Frank Hofstetter.

40. Attached as **Exhibit 38** is the Plaintiff's Known Site Worker Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed Frank Hofstetter.

41. Attached as **Exhibit 39** are selected pages from Plaintiff's Third Supplemental Response for Site Workers and Past Testimony to Standard

Interrogatories – 8/24/2012, which disclosed Frank Hofstetter.

42. Attached as **Exhibit 40** are selected pages from Plaintiff's Fourth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 9/14/2012, which disclosed Frank Hofstetter.

43. Attached as **Exhibit 41** are selected pages from Plaintiff's Fifth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 9/24/2012, which disclosed Frank Hofstetter.

44. Attached as **Exhibit 42** are selected pages from Plaintiff's Sixth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 9/28/2012, which disclosed Frank Hofstetter.

45. Attached as **Exhibit 43** are selected pages from Plaintiff's Sixth [sic] Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 10/1/2012, which disclosed Frank Hofstetter.

46. Attached as **Exhibit 44** are selected pages from Plaintiff's Seventh Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 10/12/2012, which disclosed Frank Hofstetter.

47. Attached as **Exhibit 45** are selected pages from Plaintiff's Eighth [sic] Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 10/26/2012, which disclosed Frank Hofstetter.

48. Attached as **Exhibit 46** are selected pages from Plaintiff's Ninth Supplemental Response for Site Workers and Past Testimony to Standard Interrogatories – 11/9/2012, which disclosed Frank Hofstetter.

49. Attached as **Exhibit 47** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony - 12/7/2012, which disclosed Frank Hofstetter.

50. Attached as **Exhibit 48** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony - 12/21/2012, which disclosed Frank Hofstetter.

51. Attached as **Exhibit 49** are selected pages from CVLO Plaintiffs' Rule 26 disclosure of Site Workers and Past Testimony - 2/1/2013, which disclosed Frank Hofstetter.

52. Attached as **Exhibit 50** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony - 3/20/2013, which disclosed Frank Hofstetter.

53. Attached as **Exhibit 51** are selected pages from Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony - 4/15/2013, which disclosed Frank Hofstetter.

54. Attached as **Exhibit 52** are selected pages from CVLO Plaintiffs' Rule 26 disclosure for Site Workers and Past Testimony - 4/26/2013, which disclosed Frank Hofstetter.

55. Attached as **Exhibit 53** are selected pages from Plaintiffs' Rule 26 disclosure for Site Workers and Past testimony - 10/18/2013, which disclosed Frank Hofstetter.

56. Attached as **Exhibit 54** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial

Disclosure dated 10/19/2015, which disclosed Frank Hofstetter.

E. William Lea

57. Attached as **Exhibit 55** are selected pages from Plaintiff's Supplemental Response to Standard Interrogatories – 6/12/2012, which disclosed William Lea.

58. Attached as **Exhibit 56** is the Plaintiff's Known Site Worker Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed William Lea.

59. Attached as **Exhibit 57** are selected pages from Plaintiff's Supplemental Rule 34 responses and Rule 26(a) Disclosures – February 7, 2013, which disclosed William Lea.

60. Attached as **Exhibit 58** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial Disclosure dated 10/19/2015, which disclosed William Lea.

F. John Locher

61. Attached as **Exhibit 59** are selected pages from Plaintiff's Supplemental Response to Standard Interrogatories – 6/12/2012, which disclosed John Locher.

62. Attached as **Exhibit 60** is the Plaintiff's Known Site Worker Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed John Locher.

63. Attached as **Exhibit 61** is Owens-Illinois, Inc.'s Second Supplemental Rule 26(a) Disclosures, which disclosed John Locher.

64. Attached as **Exhibit 62** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial Disclosure dated 10/19/2015, which disclosed John Locher.

G. Ralph Van Beck

65. Attached as **Exhibit 63** are selected pages from Plaintiff's Supplemental Response to Standard Interrogatories – 6/12/2012, which disclosed Ralph Van Beck.

66. Attached as **Exhibit 64** is the Plaintiff's Known Site Worker Past Testimony by Job Site for CVLO Cases (IL & WI) dated July 13, 2012, which disclosed Ralph Van Beck.

67. Attached as **Exhibit 65** is Owens-Illinois, Inc.'s Rule 26(a)(3) Pretrial Disclosure dated 10/19/2015, which disclosed Ralph Van Beck.

H. Supplemental Expert Reports

68. Attached as **Exhibit 66** is the email that I sent to Michael Cascino (ecf.cvlo@gmail.com), which served Owens-Illinois, Inc.'s Supplemental Rule 26(a) Disclosures and Expert Reports on September 19, 2014, and was sent before Robert McCoy and Daniel Hausman entered their appearances in this case in the Western District of Wisconsin.

Respectfully submitted,

/s/ Brian O. Watson

Brian O. Watson

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Attorneys for Defendant

Owens-Illinois, Inc.

CERTIFICATE OF SERVICE

I certify that on April 1, 2016, these papers were filed with the Clerk of the Court for the United States District Court for the Western District of Wisconsin using the CM/ECF system, which will send notification of such filing upon all parties who have appeared.

/s/ Brian O. Watson